

REMARKS

By this paper, claims 37 and 85 have been amended. Claims 37-85 remain pending. Reconsideration of the present application is respectfully requested.

In the outstanding Office action dated August 9, 2005, the disclosure was objected to for failure to cite patent numbers of applications which were identified in the specification and which have since issued. By this paper, the specification has been amended to include such patent numbers. Accordingly, it is believed that the objection to the specification has been traversed.

Additionally, in the outstanding Office action, the Examiner indicated that a document entitled "Heat Treatment of Steel" could not be located and that it would not be considered until a replacement copy was provided. Therefore, Applicants have submitted herewith a replacement copy of the document entitled "Heat Treatment of Steel" and respectfully request that the document be considered in connection with the present application.

Moreover, in the August 9, 2005 Office action, claim 85 was objected to due to lacking a period at the end of the claim. Claim 85 has been amended to include a period to thereby traverse the objection to the claim.

Furthermore, the Examiner set forth four different double patenting rejections in the August 2005 Office action. Claims 56 and 57 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 20 and 21 of U.S. Patent No. 6,827,734. Also, claims 37-41, 44-50, 53-59, 62-66, 70-73,

75 and 77-85 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7 of U.S. Patent No. 6,736,843 and claims 56 and 57 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,419,693. Finally, claims 56 and 57 were again rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 3 of U.S. Patent No. 5,636,641.

In view of the obviousness-type double patenting rejection of claims 37-41, 44-50, 53-59, 62-66, 70-73, 75 and 77-85, Applicants have submitted a Terminal Disclaimer. The Terminal Disclaimer disclaims the terminal part of the statutory term which would extend beyond the expiration date of the full statutory term of U.S. Patent No. 6,736,843. Its believed that submitting such a Terminal Disclaimer operates to traverse the rejection of these claims under the judicially created doctrine of obviousness-type double patenting as set forth in the outstanding Office action.

Turning to the double patenting rejections of claims 56 and 57, it is respectfully submitted that the subject matter recited in claims 56 and 57 is not an obvious variation of the invention defined in claims 20 and 21 of U.S. Patent No. 6,827,734; claim 1 of U.S. Patent No. 6,419,693; or claims 1 and 3 of U.S. Patent No. 5,636,641. Significantly, claims 56 and 57 further limit independent claim 53 which recites a cylindrically shaped balloon-expandable stent comprising a plurality of independently expandable and interconnected cylindrical elements wherein the cylindrical elements have an elasticity insufficient to allow expansion from a first low profile delivery configuration to a second

radially expanded configuration without permanent plastic deformation, the cylindrical elements having an undulating component. Clearly, neither claims 20 and 21 of U.S. Patent No. 6,827,734, nor claim 1 of U.S. Patent No. 6,419,693, nor claims 1 and 3 of U.S. Patent No. 5,636,641 recite cylindrical elements having an elasticity insufficient to allow expansion from a first low profile delivery configuration to a second radially expanded configuration without permanent plastic deformation wherein the cylindrical elements have an undulating component. Such recited subject matter render the pending claims patentably distinct from the claims of these patents. Therefore, it is respectfully requested that the double patenting rejections of claims 56 and 57 be withdrawn.

The Applicants now turn their attention to the rejections of the claims under 35 U.S.C. § 102(e) and 35 U.S.C. § 103(a) set forth in the outstanding Office action. More specifically, claims 37-49, 53, 56-61, 72-74 and 83 were rejected under § 102(e) as being anticipated by Robinson et al. (U.S. Patent No. 5,891,193) and claims 54, 62-71, 75, 76, 84 and 85 were rejected under § 102(e) in view of Robinson et al. or in the alternative under § 103(a) in view of Robinson et al. Moreover, claims 51 and 52 were rejected under § 103(a) as being unpatentable over Robinson et al. in view of Hillstead (U.S. 4,856,516) or Tower (U.S. 5,217,483).

Accordingly, it is to be noted that as an initial matter, in view of the Terminal Disclaimer filed concurrently herewith, claims 50, 55 and 77-82 are now believed to be allowable since the claims are not rejected in view of the art.

Further, it is respectfully submitted that the Robinson et al. patent does not disclose the subject matter recited in the claims and as such, claims 37-49, 51-54, 56-76 and 83-85 are not anticipated or rendered obvious by the teachings of Robinson et al.

Notably, in rejecting claims 37-49, 53, 56-61, 72-74 and 83 under § 102(e), the Examiner states that since the stent disclosed in Robinson et al. can be bent to form the stent, the stent is therefore plastically deformable and can be expanded to a state where there would be no bends in the wires forming the stent. The Examiner then concluded that "this unbent expanded diameter reads on the 'diameter suitable to hold open the coronary artery' as claimed." The Examiner then further stated that "self-expansion depends on how the device is used and how it is biased." However, there is no recognition in the cited Robinson et al. patent of using or biasing the disclosed stent in a manner other than for self-expansion and as such, the Robinson et al. patent does not teach each and every limitation recited in the claims as is required under § 102(e). Clearly, the Robinson et al. patent does not teach the balloon expandable stent recited in independent claims 37, 44, 53 and 83 or their respective dependent claims. Further, the Robinson et al. reference does not teach a stent including cylindrical elements which can not be elastically compressed to a first low profile delivery configuration without plastic deformation or which have an elasticity insufficient to allow expansion from the first low profile delivery configuration to a second radially expanded configuration without plastic deformation as recited in claims 37-44 and 72-76. Moreover, Robinson et al. does not teach a stent having a first low profile configuration for delivery and a second radially expanded configuration and which is plastically deformable from the first low profile

configuration to the second radially expanded configuration as is recited in claims 44-50 nor cylindrical elements of a stent having an elasticity insufficient to allow expansion from a first low profile configuration to a second radially expanded configuration without permanent plastic deformation as is recited in claim 53-61 and 83. In fact, the Robinson et al. patent teaches a self-expanding anchor which is "compressible to a low profile (small diameter) and can expand resiliently to an enlarged diameter" (See Summary of the Invention; Col. 3, lns. 4-6). Since the Robinson et al. patent does not teach the above-identified subject matter, it does not constitute anticipatory art. Therefore, it is respectfully submitted that claims 37-50, 53-61, 72-76 and 83 are allowable over the cited Robinson et al. patent.

For similar reasons, it is believed that the rejections of claims 54, 62-71, 75, 76, 84 and 85 under 102(e) or in the alternative under 103(a), is traversed. Notably, the allowability of dependent claims 54, 75 and 76 have been addressed above as these claims have been shown to be allowable due to the significant distinctions between the subject matter recited in their respective independent claims, namely claims 53 and 37, and the Robinson et al. patent. Claims 62-71, 84 and 85 are believed to also recite subject matter which clearly distinguishes these claims for the Robinson et al. patent. That is, each of claims 62-71, 84 and 85 recite a stent that is plastically deformable from a low profile delivery configuration to a radially expanded configuration. As stated, the Robinson et al. patent simply does not contemplate plastically deforming a stent from a low profile delivery configuration to an expanded configuration. Robinson et al. also does not contemplate a balloon expandable stent as is required by claims 84 and 85.

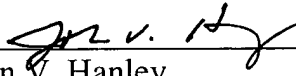
Without any recognition of the same, it is respectfully submitted that Robinson et al. neither anticipates nor renders obvious the subject matter of claim 54, 62-71, 75, 76, 84 and 85.

It is also respectfully submitted that claims 51 and 52 are allowable over the combination of the Robinson et al. patent and the Hillstead or Tower patents. Again, the Robinson et al. patent is completely lacking in the teaching of a balloon expandable stent as well as cylindrical elements having an elasticity insufficient to allow expansion from a first low profile delivery configuration to a second radially expanded configuration without permanent plastic deformation as is recited in independent claim 51. Moreover, neither Robinson et al. nor the other cited art teach the balloon expandable stent including an interior chamber configured to receive an expandable member for plastically expanding the stent, the stent formed of an alloy containing cobalt, chromium, molybdenum and nickel, as is recited in claim 52. Therefore, Applicants respectfully traverse the 103(a) rejection of the claims 51 and 52. Accordingly, it is respectfully submitted that claims 51 and 52 are also allowable over the cited art.

CONCLUSION

Applicants have attempted to completely respond to the rejections set forth in the outstanding Office action. In view of the above amendments and remarks, Applicant respectfully request that the application be reconsidered, the claims allowed and the application passed to issue.

Respectfully submitted,
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